

## **REMARKS/ARGUMENTS**

### **STATUS OF THE CLAIMS**

Claims 1-3 and 5-22 are pending with entry of this amendment, claim 4 having been previously cancelled. Claims 2, 3 and 5-10 are withdrawn from current consideration.

Claim 1 is amended herein. This amendment introduces no new matter and support is replete throughout the specification. The amendment is made without prejudice and is not to be construed as abandonment of the previously claimed subject matter or agreement with any objection or rejection of record.

The amendment to claim 1 finds support in the specification, e.g., at paragraphs [0025], [0028], and elsewhere (referring to U.S. Publication No. 2007/0152545), which set forth an apparatus configured for accessibly mounting a class of products capable of “immediate personal operation by a user without requiring the product to be physically removed from the apparatus.” For example, it is readily understood that projector units, visual display units, keyboards, telephones, and the like, are products that are immediately operable without physical removal from the apparatuses of the invention.

Applicants submit that no new matter has been added to the application by way of the above Amendment. Accordingly, entry of the Amendment is respectfully requested. Applicants traverse all rejections and objections, to the extent that they are applied to the amended claims.

### **THE DRAWINGS (ITEMS 1 AND 2)**

It is alleged at Item 1 that the amendment to Figure 3, filed January 14, 2010, contains new matter.

Applicants’ representative thanks the Examiner for discussing the drawings by telephone on May 24, 2010. A replacement drawing sheet including an amendment to Figure 3 is submitted herein. Figure 3 as presently amended includes an example configuration of schematically illustrated motor 85 connected to the pivot assembly via rod 67. This configuration finds support in the specification as filed. For example, the specification at p. 2

lines 30-32 (corresponding to paragraph [0011] of U.S. Publication No. 2007/0152545) states that “one of the axles/rods could be extended outside the frame in such a way that a motor may be attached to the axle allowing the panel or panels to be rotated by the motor.”

Amended Figure 3 shows motor 85 positioned adjacent to frame section 46 for attachment to portion of rod 67 extending outside of the frame. Applicants submit that the configuration of the present amendment to Figure 3 is fully supported by the specification as filed and request entry of the amendment.

As is readily understood by those of skill in the art, the motor of amended Figure 3 can represent any motor or motorized connection or mechanism and that alternative configurations are possible (e.g., attachment of the motor to rod 69, and the like).

At Item 2, the drawings were objected to as allegedly noncompliant with 37 C.F.R. 1.83(a). As noted above, Figure 3 as presently amended includes the motor of claims 19 and 20. Applicants submit that the amendment brings the drawings into compliance with Rule 1.83(a) and request that the objection be withdrawn.

#### THE CLAIMS ARE FREE OF MARTIN, VOGEL AND WOLF

The Action alleges that claims 1, 11 and 21-22 are anticipated by USPN 1,894,185 (“Martin”) and USPN 2,048,363 (“Vogel”). It is further alleged that claims 1, 11-14, 21 and 22 are anticipated by USPN 4,002,382 (“Wolf”). To the extent that the rejections under §102(b) are applied to the amended claims, Applicants traverse.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. MPEP §2131, citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

At least because neither Martin, Vogel, nor Wolf teach an apparatus that accessibly *mounts* a product for immediate personal operation by a user *without requiring the product to be physically removed* from the apparatus, these references fail to anticipate the present invention. Martin relates to “filing racks...especially adapted for use for filing away bolts, rivets, nuts, and the like...” See Martin at, e.g., the first paragraph. Vogel relates to an “ash receptacle.” See Vogel at, e.g., the title and first paragraph. Wolf relates to a dental treatment room configuration which includes a doctor’s sink cabinet that is allegedly relevant

to the present invention.

Nowhere in Martin, Vogel or Wolf is a product *mounted*, let alone accessibly mounted for immediate personal operation without requiring the product to be physically removed from the apparatus. For this reason alone, the references fail to teach the limitations of amended claim 1, and the rejections under §102(b) should be withdrawn.

#### THE CLAIMS ARE NOT OBVIOUS

Claims 15-18 were rejected under 35 U.S.C. §103(a) as allegedly obvious over Wolf, in view of USPN 5,954,410 (“Noellert”). Claims 19-20 were rejected under 35 U.S.C. §103(a) as allegedly obvious over Vogel, in view of U.S. Publication No. 2002/0079792 (“Nott”). To the extent that the rejections are applied to the amended claims, Applicants traverse.

In order to meet its burden in establishing a rejection under 35 U.S.C. §103(a), the Patent Office must first demonstrate that the combined prior art references teach or suggest all the claimed limitations. MPEP § 2143(A). In addition to demonstrating that all elements were known in the prior art, the Patent Office must also articulate a reason for combining the elements. See, *e.g.*, *KSR Int’l Co. v. Teleflex Inc.*, 127 S.Ct 1727 (2007) (“KSR”) at 1741; *Omegaflex, Inc. v. Parker-Hannifin Corp.*, 243 Fed. Appx. 592, 595-596 (Fed. Cir. 2007) citing *KSR*; and *Innogenetics, N.V. v. Abbott Laboratories* 512 F.3d 1363, 1373, 85 USPQ2d 1641 (Fed. Cir. 2008).

With respect to Wolf and Noellert, the proposed combination does not meet the requirements for establishing a *prima facie* case of obviousness, at least because the references, alone or in combination, fail to teach all of the limitations of the claims. As noted above, the apparatus of amended claim 1, *e.g.*, accessibly mounts a product for immediate personal operation by a user without requiring the product to be physically removed from the apparatus. This feature of the present invention is completely absent from Wolf and Noellert. For this reason alone, the rejection should be withdrawn.

Also absent is any suggestion or motivation to combine or modify Wolf and/or Noellert to arrive at the present invention. For example, and with reference again to the limitation of amended claim 1 that the apparatus accessibly *mounts* the product, no mention is made regarding the type of the articles to be stored in the allegedly relevant sink

cabinet of Wolf. However, it is clear that any products that are mounted in the dental treatment room of Wolf are either mounted onto a wall or an external surface of mobile cabinet 41 (see Wolf at column 3, lines 46-49), which bear no resemblance to the sink cabinet of Wolf, let alone the apparatuses of the present invention.

Moreover, the suspended ceiling of Noellert is expressly intended for storing articles that are readily placed in, and removed from, the ceiling:

“Articles are now *placed* onto the storage unit, and the inner frame is then rotated back into the plane of the outer frame, whereupon the connectors are again engaged with the outer frame. Later on, if the user needs to *remove* articles, or add additional articles, the inner frame is rotated down and then back up as desired.” Noellert at column 2, lines 16-22.

Accordingly, in addition to failing to disclose each element of the claimed invention, Wolf and/or Noellert do not provide any suggestion or motivation to modify the subject matter disclosed therein to arrive at the present invention. As none of the requirements for establishing a *prima facie* case of obviousness are met by Wolf and/or Noellert, the rejections based upon these references should be withdrawn.

For similar reasons, the proposed combination of Vogel and Nott is inadequate to render the present invention obvious. First, the combination of Vogel and Nott fails to teach the limitations of amended claim 1. For example, neither reference teaches (or remotely contemplates) an apparatus for accessibly mounting a product as required by the amended claims. Vogel – relating to an ash receptacle – is characterized above. Nott relates to a motorized overhead storage device that does not mount a product, but rather is intended for storing “such things as paint cans, camping gear, sports gear, balls, skis, garden tools and the like.” See Nott at paragraph [0007].

In addition to failing to teach the limitations of claim 1 as amended herein, there is simply no common sense rationale for modifying Vogel (an *ash* receptacle) and/or Nott (a device for storing items such that the items can be easily *removed*) to arrive at the apparatus of the present invention which accessibly mounts a product for immediate personal operation by a user without requiring the product to be physically removed from the apparatus. As the foregoing demonstrates, the requirements for establishing a *prima facie* case of obviousness are not met by Vogel and/or Nott and the rejections should be

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withdrawn.

### CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the claims are deemed not to be in condition for allowance after consideration of this Response, a telephone interview with the Examiner is hereby requested. Please telephone the undersigned at (510) 337-7871 to schedule an interview.

The Commissioner is hereby authorized to charge any additional fees associated with this paper or during the pendency of this application, or credit any overpayment, to Deposit Account No. 50-0893.

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Respectfully submitted,

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